

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

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:
UNITED STATES OF AMERICA, :
:
v. : 12-CR-391 (BMC)
:
JASON CARTER, : November 14, 2012
:
Defendant. : Brooklyn, New York
:
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TRANSCRIPT OF CRIMINAL CAUSE FOR PLEADING
BEFORE THE HONORABLE STEVEN M. GOLD
UNITED STATES MAGISTRATE JUDGE

APPEARANCES:

For the Government: LORETTA LYNCH, ESQ.
UNITED STATES ATTORNEY
BY: MATTHEW ARMATRUDA, ESQ.
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For the Defendant: ERIC SCHLOSSER, ESQ.

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Proceedings recorded by electronic sound recording,
transcript produced by transcription service

1 THE COURT: Hello.

2 MR. SCHLOSSER: Good morning, your Honor.
3 Eric Schlosser for Mr. Carter.

4 THE COURT: Good morning.

5 Mr. Carter, do you speak and understand
6 English?

7 THE DEFENDANT: Yes, sir.

8 THE COURT: Mr. Carter, the reason you're in
9 my courtroom today is that your lawyer indicates that
10 you wish to surrender your right to trial and enter a
11 plea of guilty to Count 1 of the indictment in which
12 you're charged.

13 THE DEFENDANT: Yes, sir.

14 THE COURT: Before I may hear any plea of
15 guilty you choose to offer, I need to make sure you
16 understand that I am not the judge who is presiding
17 over your case. The judge presiding over your case is
18 United States District Judge Brian Cogan. Judge Cogan
19 is the one who will decide whether any plea of guilty
20 you offer should be formally accepted and if it is, how
21 your sentence should be determined.

22 I am a magistrate judge and I am not
23 authorized under the law to take those steps, that is
24 to formally accept your plea or decide your sentence.
25 If you wish, you have the absolute right to have

1 District Judge Cogan listen to your plea, and if that
2 is your choice, there will be no prejudice to you.

3 In the alternative, though, if I have your
4 consent and agreement, I do have the authority to be
5 the judge who hears your plea, and if you agree to
6 present your plea to me, I'll arrange for this entire
7 proceeding to be recorded and transcribed, so that
8 Judge Cogan can read all the words we've said to each
9 other before he's called upon to decide whether to
10 accept your plea or what your sentence should be.

11 Do you understand everything I've said?

12 THE DEFENDANT: Yes, sir.

13 THE COURT: Do you wish to surrender your
14 right to have Judge Cogan listen to your plea of guilty
15 and do you wish to present it instead to me?

16 THE DEFENDANT: Yes.

17 THE COURT: Are you making this decision
18 voluntarily and of your own free will?

19 THE DEFENDANT: Yes.

20 THE COURT: Have you been threatened or
21 pressured by anyone to get you to agree to this?

22 THE DEFENDANT: No.

23 THE COURT: Did you review this consent form
24 carefully with Mr. Schlosser and then sign it?

25 THE DEFENDANT: Yes, I did.

1 THE COURT: Mr. Schlosser, do you know of
2 any reason why your client should not consent to
3 proceed before me for these purposes?

4 MR. SCHLOSSER: No, your Honor.

5 THE COURT: I find the consent of the
6 defendant knowing and voluntary. I'm adding my
7 endorsement to the consent form to reflect my finding,
8 and we'll proceed from there.

9 Mr. Carter, before I may recommend to Judge
10 Cogan that he accept any plea of guilty that you may
11 choose to offer, I need to ask you a lot of questions.
12 The questions are very important. They're designed to
13 make sure that you understand what a serious decision
14 it is you are about to make.

15 The questions are also designed to create a
16 record that will demonstrate that I explained your
17 rights to you, you acknowledged that you understood
18 them and you agreed to give them up. Once that
19 happens, any plea of guilty you then offer will be
20 legally valid and permanently binding upon you.

21 Accordingly, I urge you to listen to my
22 questions carefully. If I ask you anything that you're
23 not sure you understand, just tell me and I will try to
24 re-ask the question and make it clearer to you. If you
25 want to stop at any time to ask me a question or

1 because you'd like to speak privately with Mr.
2 Schlosser, just tell me and I'll give you that
3 opportunity.

4 Is all of this clear to you so far?

5 THE DEFENDANT: Yes, sir.

6 THE COURT: It's so important that you tell
7 the truth during this proceeding that I will direct
8 that you be placed under oath before we go any further,
9 so please rise.

10 THE CLERK: Mr. Carter, please raise your
11 right hand.

12 (Defendant is sworn.)

13 THE COURT: Please be seated, Mr. Carter.

14 Now that you've been sworn, when you answer
15 my questions, you do so under the penalties of perjury
16 or making a false statement. That means that if you
17 lie during this proceeding, criminal charges could be
18 brought against you just for that.

19 Is this clear to you?

20 THE DEFENDANT: Yes, sir.

21 THE COURT: State your full name.

22 THE DEFENDANT: Jason Leon Carter.

23 THE COURT: How old are you?

24 THE DEFENDANT: 45.

25 THE COURT: How far did you go in school?

1 THE DEFENDANT: I think it was eighth grade.

2 THE COURT: Is English your native language?

3 THE DEFENDANT: Yes.

4 THE COURT: Are you having any difficulty
5 understanding me today?

6 THE DEFENDANT: No.

7 THE COURT: Are you now or have you recently
8 been seeing a doctor or a psychiatrist or any
9 healthcare professional at all for mental, physical or
10 emotional problems of any kind?

11 THE DEFENDANT: Yes.

12 THE COURT: What are you being treated for?

13 THE DEFENDANT: I have a learning
14 disability.

15 THE COURT: Okay. And who's treating you
16 for that?

17 THE DEFENDANT: I forgot the doctor's name
18 but it's from the SSI. I receive disability.

19 THE COURT: Okay.

20 THE DEFENDANT: I've been in special
21 education -- special education, for my mental health
22 doctor there, in (ui), you know, like when you're going
23 to for SSI, they send you to their doctor. So I didn't
24 have like a special doctor.

25 THE COURT: Okay. Have you been treated

1 while you're in custody?

2 THE DEFENDANT: No, I haven't.

3 THE COURT: Were you taking any medication
4 in connection with your disability?

5 THE DEFENDANT: No, just -- I'm just -- I'm
6 on diabetic medication.

7 THE COURT: Okay. So you're taking insulin
8 for that?

9 THE DEFENDANT: Metaformin (ph).

10 THE COURT: Okay. Other than medication for
11 diabetes, are you receiving medication for any other
12 kind of problem?

13 THE DEFENDANT: Well, I got other conditions
14 that led from my diabetes.

15 THE COURT: Okay.

16 THE DEFENDANT: Like bad nerves in my legs,
17 and they give me pills for that.

18 THE COURT: Those are pain pills?

19 THE DEFENDANT: Like, yeah. My legs get
20 numb and the nerve -- the damage is bad, so they gave
21 me pills for that.

22 THE COURT: Do you know what that's called?

23 THE DEFENDANT: I don't know the name
24 exactly of the drug but --

25 THE COURT: Okay.

1 THE DEFENDANT: Every day, I take it.

2 THE COURT: Other than the -- I forgot the
3 name of it already myself -- the pill for the diabetes
4 and the pill for the leg pain, are you taking any other
5 medications?

6 THE DEFENDANT: No.

7 THE COURT: Are you being treated for any
8 other conditions or have you been over the last couple
9 of months?

10 THE DEFENDANT: No.

11 THE COURT: Do the pills you're taking
12 affect your ability to concentrate or stay awake?

13 THE DEFENDANT: No, no, it doesn't.

14 THE COURT: Other than the medicines that
15 were prescribed to you by the doctors, have you had any
16 alcohol or drugs in the last 24 hours?

17 THE DEFENDANT: No, I haven't.

18 THE COURT: Have you ever been hospitalized
19 or treated for drug or alcohol abuse?

20 THE DEFENDANT: No.

21 THE COURT: Have you ever been hospitalized
22 or treated for a psychiatric or emotional problem other
23 than your learning disability?

24 THE DEFENDANT: No, I haven't.

25 THE COURT: Is your mind clear today?

1 THE DEFENDANT: Yes.

2 THE COURT: Do you feel healthy and focused
3 and alert, except for your diabetes?

4 THE DEFENDANT: Yes.

5 THE COURT: Are you understanding everything
6 I've said so far?

7 THE DEFENDANT: Yes, sir.

8 THE COURT: Mr. Schlosser, are you appointed
9 or retained?

10 MR. SCHLOSSER: I'm appointed.

11 THE COURT: Have you discussed the matter of
12 pleading guilty carefully with your client?

13 MR. SCHLOSSER: Yes.

14 THE COURT: Is your microphone on, by the
15 way?

16 MR. SCHLOSSER: Yes.

17 THE COURT: Okay, I guess it was -- you were
18 just too far away. I wasn't hearing it come through
19 the system.

20 MR. SCHLOSSER: Sorry.

21 THE COURT: That's okay.

22 Does your client, in your judgment,
23 understand the rights that he'll be waiving by pleading
24 guilty?

25 MR. SCHLOSSER: He does, yes.

1 THE COURT: Were you aware before today of
2 his learning disability and lack of formal education?

3 MR. SCHLOSSER: I'm not sure I was aware of
4 his learning disability. We certainly discussed his
5 background and I'm going to forward -- we've had
6 discussions about his medical condition because I've
7 asked a lot of questions about it, because I have some
8 specific knowledge about it.

9 THE COURT: Okay. Is he capable, in your
10 judgment, based on the conversations you've had with
11 him, of understanding the nature of this proceeding?

12 MR. SCHLOSSER: Fully capable.

13 THE COURT: Do you have any doubt about his
14 competence to tender a guilty plea at this time?

15 MR. SCHLOSSER: None.

16 THE COURT: Have you alerted him to the
17 maximum sentence and fine that can be imposed and
18 discussed with him the likely operation of the
19 sentencing guidelines as best you can anticipate it?

20 MR. SCHLOSSER: Yes, Judge, we've had a
21 number of conversations.

22 THE COURT: And he seemed focused and
23 capable of keeping up with you throughout.

24 MR. SCHLOSSER: More than focused, yes. He
25 understands what's going on.

1 THE COURT: Thank you.

2 Mr. Armatruda, is it the understanding of
3 the United States that Mr. Carter is a citizen of this
4 country?

5 MR. ARMATRUDA: It is, Judge.

6 THE COURT: Thank you.

7 Mr. Carter.

8 THE DEFENDANT: Yes.

9 THE COURT: Have you had enough time to go
10 over your case very carefully with Mr. Schlosser and
11 have you done that?

12 THE DEFENDANT: Yes, sir.

13 THE COURT: Are you satisfied to have Mr.
14 Schlosser be the lawyer who is defending you?

15 THE DEFENDANT: Yes, sir.

16 THE COURT: Have you received a copy of the
17 superseding indictment, which is the newest set of
18 charges in your case?

19 THE DEFENDANT: Yes.

20 THE COURT: Have you reviewed that
21 superseding indictment very carefully with your
22 attorney?

23 THE DEFENDANT: Yes, I have.

24 THE COURT: The charges in this superseding
25 indictment have to do with narcotics distribution and

1 Count 1, the charge that your agreement says you wish
2 to enter a guilty plea to, accuses you of knowingly and
3 intentionally conspiring or agreeing to work together
4 with others to distribute cocaine and heroin between
5 January and May of this year.

6 Do you understand what you're accused of in
7 Count 1?

8 THE DEFENDANT: Yes, sir.

9 THE COURT: You have a right to plead not
10 guilty to that charge and all of the other charges
11 pending in the superseding indictment and to persist in
12 any previously entered not guilty plea you may have
13 made. You have that right even if you've committed the
14 crimes that are described in the superseding
15 indictment.

16 Pleading not guilty can never be lying to
17 the Court because every defendant, whether he's guilty
18 or not, has the right to plead not guilty. It's the
19 way he exercises his constitutional right to a trial,
20 if he wants to go to trial.

21 Do you understand me?

22 THE DEFENDANT: Yes, sir.

23 THE COURT: If you persist in any previously
24 entered not guilty plea or plead not guilty today, then
25 under the Constitution and laws of the United States,

1 you would be entitled to a speedy, public trial by a
2 jury, with your attorney's assistance, not only at the
3 trial but at all of the stages leading up to the trial,
4 on all of the charges that are pending against you.

5 Did you understand that?

6 THE DEFENDANT: Yes, I did.

7 THE COURT: At your trial, you would be
8 presumed to be innocent. The prosecution would have to
9 prove that you were guilty by competent evidence and
10 beyond a reasonable doubt. In other words, they've
11 have to overcome this presumption that you are innocent
12 with their proof. The proof would have to be
13 admissible and legitimate evidence, and it would have
14 to convince each of the jurors of your guilt beyond a
15 reasonable doubt.

16 You would not have to prove that you were
17 innocent at the trial. If the government failed to
18 prove that you were guilty beyond a reasonable doubt,
19 the members of the jury would have the duty to return a
20 not guilty verdict, and Judge Cogan would tell them
21 that.

22 Did you understand that?

23 THE DEFENDANT: Yes, sir.

24 THE COURT: So then you can understand why
25 it sometimes happens that a jury will return a not

1 guilty verdict and acquit the defendant sometimes in
2 cases when they believe the defendant probably
3 committed the crimes in the indictment, because when a
4 jury finds a defendant not guilty, the jurors are not
5 necessarily saying that they believe the defendant is
6 innocent. All that they're saying, all that's required
7 for a not guilty verdict is that the jurors are not
8 convinced beyond a reasonable doubt that the defendant
9 committed the charged crimes.

10 Did you understand me?

11 THE DEFENDANT: Yes, sir.

12 THE COURT: If you proceeded to a trial, the
13 prosecutor's witnesses would be required to come into
14 the courtroom and to present their testimony against
15 you right in front of you and your lawyer. Your lawyer
16 could ask questions of the prosecution's witnesses on
17 cross-examination.

18 Your lawyer could raise legal objections to
19 the evidence the prosecution tried to offer at the
20 trial in support of its case, and you and your lawyer
21 working together would have the right to call
22 witnesses, present physical evidence and make arguments
23 to the jury during the course of the trial. You could
24 even subpoena witnesses you thought might be helpful to
25 your case and thereby require them to come to court to

1 testify on your behalf.

2 Did you understand all of that?

3 THE DEFENDANT: Yes, sir.

4 THE COURT: At your trial, you yourself
5 would have the right to testify as a witness in your
6 own defense, if you made that choice, but nobody could
7 make you testify at the trial if you preferred not to
8 be a witness. That's because the Constitution of the
9 United States says that no one may be required to say
10 anything that is self-incriminating.

11 If you decided that you did not want to
12 testify as a witness in your own defense at your trial,
13 Judge Cogan would tell the jurors that they could not
14 take your silence during the trial into account or hold
15 it against you in any way when they decided what their
16 verdict in your case should be.

17 Did you follow that?

18 THE DEFENDANT: Yes.

19 THE COURT: On the other hand, if you offer
20 a guilty plea and Judge Cogan accepts it, you will then
21 be giving up your constitutional right to trial and all
22 of the other rights I've been telling you about today.
23 There will be no further trial of any kind in your
24 case. You will have no right to appeal from the
25 judgment of guilt that will be entered against you

1 because of your guilty plea.

2 Judge Cogan will essentially convict you and
3 find you guilty based upon the words you say in my
4 courtroom this afternoon, and that will free the
5 prosecution of its responsibility to prove what you
6 did.

7 Did you understand that?

8 THE DEFENDANT: Yes, sir.

9 THE COURT: If you did go to trial and the
10 jury found you guilty, you would then have a right to
11 take an appeal and ask a higher court to review the
12 legality of all of the steps leading up to your
13 conviction. But when you plead guilty, your conviction
14 is based upon your own words. And in that
15 circumstance, there's no right to appeal from the
16 conviction that follows.

17 Did you follow that?

18 THE DEFENDANT: Yes, sir.

19 THE COURT: If you plead guilty, I'm going
20 to have to ask you questions about what you and the
21 other people named in the indictment were doing with
22 respect to drugs. I'll ask those questions so that
23 Judge Cogan and I can be satisfied that your plea of
24 guilty is based on facts that really happened. You
25 don't have to answer questions like that, unless you

1 want to go forward with your guilty plea.

2 If you do answer those questions and you
3 admit being involved in distributing drugs, you will be
4 surrendering your right not to say anything that is
5 self-incriminating.

6 Did you understand that?

7 THE DEFENDANT: Yes, sir.

8 THE COURT: Do you still want to give up
9 your right to trial and all the other rights I've been
10 telling you about, Mr. Carter?

11 THE DEFENDANT: Yes.

12 THE COURT: I understand you're making this
13 decision pursuant to the terms of a written plea
14 agreement. That agreement has been marked Court
15 Exhibit 1. My clerk is going to give it to your lawyer
16 now so that you can he can look at it together.

17 Do you recognize Court Exhibit 1 and does
18 your signature appear upon its last page?

19 THE DEFENDANT: Yes, sir.

20 THE COURT: Did you read that document or
21 have it read to you before you signed it?

22 THE DEFENDANT: Yes.

23 THE COURT: Did you go over it very
24 carefully with your lawyer?

25 THE DEFENDANT: Yes, I did.

1 THE COURT: Did you understand what you were
2 signing?

3 THE DEFENDANT: Yes.

4 THE COURT: Does that written agreement
5 contain a complete and accurate statement of everything
6 that you and the prosecution have agreed to with regard
7 to your case?

8 THE DEFENDANT: Yes.

9 THE COURT: Has anyone promised you anything
10 in return for your guilty plea that is not written down
11 in your plea agreement?

12 THE DEFENDANT: No.

13 THE COURT: As soon as you're done, Mr.
14 Schlosser, I'll take it back from you. Thank you.

15 As we've mentioned already, the plea
16 agreement contemplates your guilty plea to Count 1 of
17 the superseding indictment, and that's the count where
18 you're charged with conspiring or saying and agreeing
19 to work with others to distribute heroin and cocaine.

20 Do you have the charge against you clear in
21 your mind?

22 THE DEFENDANT: Yes.

23 THE COURT: I want to review with you the
24 penalties you face if you go forward with your guilty
25 plea. The law you're accused of breaking authorizes

1 Judge Cogan to send you to prison for up to twenty
2 years.

3 Do you understand that?

4 THE DEFENDANT: Yes.

5 THE COURT: It also requires Judge Cogan to
6 impose a term of supervised release that is at least
7 three years long and could be as long as the rest of
8 your life.

9 Do you understand that?

10 THE DEFENDANT: Yes.

11 THE COURT: Supervised release is a period
12 of time of at least three years and potentially as long
13 as life, but it won't start running until you finish
14 serving whatever prison term Judge Cogan imposes in
15 your case. Once you finish serving that prison term,
16 you'll be released from prison but you won't really be
17 free because you'll be subject to the rules and
18 regulations of supervised release.

19 There will be a lot of them. I can't tell
20 you what each and every one of them will be. Some of
21 them will be the following: There will be restrictions
22 on your right to travel freely. You will have a
23 probation officer and you will have to report on a
24 regular basis to the officer, answer the officer's
25 questions honestly and follow the officer's

1 instructions carefully. You will also be prohibited
2 from committing any new crimes.

3 And if you break any supervised release
4 rule, whether it's a new crime you've committed or not,
5 you could be arrested. You could be brought back to
6 this courthouse and you could be sent back to prison
7 for up to two years. You would get no credit against
8 this new two-year sentence for the time you spent
9 serving the original sentence you received or the time
10 your freedom was restricted on supervised release. And
11 that two years would be attributable to this drug
12 charge and not any new crime, for which you could be
13 separately incarcerated.

14 Do you understand that?

15 THE DEFENDANT: Yes, sir.

16 THE COURT: You could be fined as much as
17 one million dollars and you will be required to make a
18 \$100 special assessment payment at or about the time
19 you are sentenced.

20 Is that clear to you?

21 THE DEFENDANT: Yes.

22 THE COURT: Let me turn your attention then
23 to what we call the Sentencing Commission guidelines.
24 These guideline will be calculated by Judge Cogan and
25 they will provide him with a range of months within

1 which the law will suggest an appropriate sentence in
2 your case should be set.

3 Have you had a chance to discuss these
4 guidelines with Mr. Schlosser and to get his advice
5 about how they're likely to affect your sentence?

6 THE DEFENDANT: Yes.

7 THE COURT: The prosecutor has come up with
8 a guidelines estimate of 8 to 14 months, Mr. Armatruda,
9 in criminal history category 2 in a narcotics case?

10 MR. ARMATRUDA: Yes, your Honor.

11 THE COURT: Thank you.

12 -- of 8 to 14 months. I'm sure that
13 estimate was reached carefully but it's not binding on
14 Judge Cogan. Judge Cogan will decide the guideline
15 range he thinks is most accurate and appropriate in
16 your case. He won't decide that, though, until he
17 receives a report, a report we call a presentence
18 investigation report. That hasn't been written yet.

19 But when it's ready, you and your lawyer and
20 the prosecutor will all be allowed to read it. Then
21 there will be a hearing in front of Judge Cogan and
22 you'll have the opportunity to speak at that hearing.
23 You can tell Judge Cogan if there is anything in the
24 report that you think is inaccurate or unfair. And
25 after the judge hears from you, he'll make his own

1 decision about the guidelines, and it could be that
2 they're longer than the 8 to 14 months that Mr.
3 Armatruda and his office have estimated.

4 Do you understand that?

5 THE DEFENDANT: Yes.

6 THE COURT: Even after the judge decides
7 what the guidelines in your case should be, he has the
8 duty to consider other factors involved in your case
9 and all of the particular circumstances of your
10 background and your criminal behavior. He may then
11 decide that a sentence outside the guideline range he
12 calculates, maybe shorter but also maybe longer, is
13 most appropriate in your case and decide to impose that
14 sentence.

15 Is that clear to you?

16 THE DEFENDANT: Yes.

17 THE COURT: If you receive a prison term of
18 14 months or less, you will have no right to challenge
19 any aspect of your case whatsoever. Even if you are
20 sentenced to prison for longer than 14 months, you may
21 not withdraw your plea of guilty on that basis and you
22 may not challenge your conviction on that basis. The
23 only right you would have under that circumstance, a
24 sentence longer than 14 months, would be a right to
25 challenge the length of the sentence you received, if

1 you had a good faith basis to do so.

2 Is that clear to you?

3 THE DEFENDANT: Yes.

4 THE COURT: You may have heard of parole,
5 which is a program of early release from a prison term,
6 but it is a state court program of early release. This
7 is federal court. You'll be sentenced by a federal
8 judge and there's no parole in the federal system. So
9 whatever sentence you receive from Judge Cogan, you
10 won't be released early from it on parole.

11 Is that clear to you?

12 THE DEFENDANT: Yes.

13 THE COURT: Do you have any questions for me
14 or that you'd like to talk about privately with Mr.
15 Schlosser with respect to your rights, the charges
16 against you, the penalties you're facing, or anything
17 else?

18 THE DEFENDANT: No, your Honor.

19 THE COURT: Is everything I've told you
20 today clear?

21 THE DEFENDANT: Yes.

22 THE COURT: Are you ready to enter your
23 plea?

24 THE DEFENDANT: Yes.

25 THE COURT: Mr. Schlosser, do you know of

1 any reason why your client should not tender the guilty
2 plea contemplated by his agreement?

3 MR. SCHLOSSER: No, your Honor.

4 THE COURT: Mr. Carter.

5 THE DEFENDANT: Yes.

6 THE COURT: With respect to Count 1 of the
7 indictment, how do you plead, guilty or not guilty?

8 THE DEFENDANT: Guilty.

9 THE COURT: Are you making this guilty plea
10 voluntarily and of your own free will?

11 THE DEFENDANT: Yes.

12 THE COURT: Have you been threatened or
13 forced by anyone to make this guilty plea?

14 THE DEFENDANT: No.

15 THE COURT: Other than what's written in
16 your plea agreement with the prosecution, has anyone
17 promised you anything in return for pleading guilty?

18 THE DEFENDANT: No.

19 THE COURT: Has anyone promised you what
20 sentence Judge Cogan will give you?

21 THE DEFENDANT: No.

22 THE COURT: What did you do that makes you
23 guilty?

24 MR. ARMATRUDA: Judge, can I just have a
25 brief moment to confer with counsel regarding the

1 allocution?

2 THE COURT: Sure. Did I overlook something?

3 MR. ARMATRUDA: Not at all. I just wanted
4 to make sure.

5 THE COURT: Okay.

6 (Pause in Proceedings)

7 THE COURT: Mr. Carter, my --

8 Did you want to confer with Mr. Carter for a
9 minute?

10 MR. SCHLOSSER: Sure, thank you.

11 (Mr. Schlosser is conferring with the
12 defendant.)

13 THE COURT: Okay. Mr. Carter, my last
14 question to you was what you did that makes you guilty
15 of the crime. Before you answer me, it's perfectly
16 appropriate that you consulted with your attorney but,
17 obviously, your answer has to be the truth as you
18 recall it and not just what people are asking you to
19 say, okay?

20 THE DEFENDANT: Yes, sir.

21 THE COURT: So now you can tell me what
22 happened.

23 THE DEFENDANT: Back in April, 2012, I made
24 a sale with another --

25 THE COURT: You made a what?

1 THE DEFENDANT: A sale.

2 THE COURT: A sale.

3 THE DEFENDANT: With another codefendant of
4 mine, Elijah Ingram, of heroin.

5 THE COURT: Where did you make this sale?

6 THE DEFENDANT: In Far Rockaway, Queens,
7 Beach 28th Street.

8 THE COURT: And you and Mr. Ingram sold the
9 heroin together, you mean, or you sold it to him?

10 THE DEFENDANT: No, he was with me while I
11 made the sale.

12 THE COURT: Was he with you to help -- why
13 was he with you?

14 THE DEFENDANT: Because I -- well, he gave
15 me a lift to where I had to go to make the sale.

16 THE COURT: Were you making the sale at
17 someone else's instructions?

18 THE DEFENDANT: No.

19 THE COURT: You had your own independent
20 heroin business?

21 THE DEFENDANT: No, it was --

22 MR. SCHLOSSER: Were you working with Mr.
23 Ingram to do this?

24 THE DEFENDANT: Oh, yes.

25 MR. SCHLOSSER: Well, don't say yes, you

1 have to say --

2 THE DEFENDANT: I was working -- Mr. Ingram
3 was making a sale. Like I got it from him and I went
4 to go make the sale.

5 THE COURT: So Mr. Ingram gave you the
6 heroin.

7 THE DEFENDANT: Yes.

8 THE COURT: And he accompanied you on the
9 sale.

10 THE DEFENDANT: Well, he stayed outside
11 while I went into the pizza shop and made the sale.

12 THE COURT: Did you share the money that you
13 got with Mr. Ingram after the sale?

14 THE DEFENDANT: Yes.

15 THE COURT: Did you know when you went into
16 the pizza shop that you were carrying heroin with you?

17 THE DEFENDANT: Yes.

18 THE COURT: And did you know that the
19 purpose of the trip to the pizza shop was to make the
20 heroin sale?

21 THE DEFENDANT: Yes.

22 THE COURT: Is there anything further the
23 government would have me inquire of the defendant?

24 MR. ARMATRUDA: No, thank you, Judge.

25 THE COURT: Based on the information given

1 to me, I find that the defendant Mr. Carter is acting
2 voluntarily, that he fully understands his rights and
3 the consequences of his plea, and that his plea has a
4 factual basis. I therefore respectfully recommend that
5 Judge Cogan accept the defendant's plea of guilty to
6 Count 1 of the superseding indictment (S-1), in full
7 satisfaction of his criminal liability for that
8 indictment.

9 Judge Cogan has scheduled sentencing for
10 February 21st at 10:30 a.m. If that date is not
11 convenient to counsel, I urge you to direct your
12 request for modification to Judge Cogan's chambers.

13 MR. SCHLOSSER: Did you say 10:30?

14 THE COURT: I did say 10:30. If I didn't, I
15 intended to.

16 Mr. Carter, between now and your sentencing
17 date, you're going to be interviewed by a probation
18 officer. The reason for the interview is to help the
19 officer prepare the report Judge Cogan will rely upon
20 when he decides on your sentence. Accordingly, I urge
21 you to be candid and cooperative with the probation
22 officer during that interview.

23 I take it, Mr. Armatruda, that this was not
24 an airport arrest and that there are no return of
25 property issues.

1 MR. ARMATRUDA: No, Judge, there aren't.

2 THE COURT: Thank you very much, everybody.

3 Anything else? Okay.

4 MR. SCHLOSSER: Thank you.

5 MR. ARMATRUDA: Thank you.

6 THE COURT: Good luck.

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I certify that the foregoing is a correct
transcript from the electronic sound recording of the
proceedings in the above-entitled matter.

A handwritten signature in dark ink, appearing to read 'EB', with a long horizontal stroke extending to the right.

ELIZABETH BARRON

January 2, 2013